

REMARKS

Reconsideration of the Examiner's Restriction Requirement for the present application is requested respectfully in view of the following remarks.

STATUS OF THE CLAIMS

Claims 1 to 17 were pending at the time of the present Examiner's Action.

Claims 1 and 8-17 have been amended. Claims 2-7 have been cancelled. New claim 18, dependent from claim 1, has been added. Accordingly, claims 1 and 8-18 are currently presented.

THE AMENDMENTS

Claim 1 has been amended for agreement with the corresponding description in the specification. First, in the definition of R⁰, a portion of option 3 was omitted in the claim as filed. This missing section has been added back to the claim. Support for this amendment may be found in the present specification at page 3, lines 5-12, where the full definition of option 3 is provided. Second, in the definition of R14, the word "is" has been inserted to complete the definition. Support for this amendment may be found at page 5, line 8 of the specification. In addition, several minor edits have been made, which are believed to be self-explanatory.

Claim 18 has been added to the application to set forth the species which applicant elects to pursue. Claim 18 is fully supported by the specification and claim 1 as currently amended, and encompasses select portions of original dependent claims 4 to 7.

Claims 8-17 have all been amended to depend from new claim 18. In addition, claim 12 has been amended to include only those compounds which fall within the scope of claim 18. Claims 13 and 17 have also been edited for clarity, and those changes are believed to be self-explanatory

Claims 2-7 have been canceled, without prejudice to including their subject matter in continuing applications.

RESTRICTION AND ELECTION OF SPECIES REQUIREMENTS

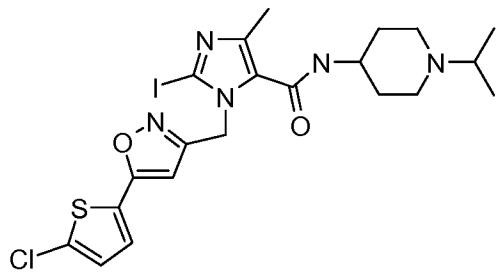
The Office Action requires restriction to one of the following three groups under 35 U.S.C. §121:

- I. Claims 1-12 and 14 drawn to compounds of formula (I) and a pharmaceutical preparation containing such compounds;
- II. Claim 13, drawn to a process for making compounds of formula (I); and
- III. Claims 15-17, drawn to methods of using the compounds of formula (I)..

Applicant hereby elects the claims of Group I, with traversal as discussed below.

Within the claims of Group I, the Examiner has further requested the election of a species of compounds within the scope of formula for further prosecution, including the designation of a single exemplary compound within that species.

In response to the election of species, applicant hereby elects as the exemplary compound, the compound according to Example 7, namely 3-[5-(5-chloro-thiophen-2-yl)-isoxazol-3-ylmethyl]-2-iodo-5-methyl-3H-imidazole-4- carboxylic acid (1-isopropyl-piperidin-4-yl)-amide, with the structural formula:



The Examiner has also requested applicant to elect specific groups within the descriptions for each of the substituents set forth in claim 1. Applicant has set forth the elected substituents in a new claim 18, which depends from claim 1. Applicant submits that Formula (I) with the substituents as defined in claim 18 defines a clear and distinct invention for examination. Once allowable subject matter has been identified, applicant intends to recast claim 18 in independent form.

The Examiner has also requested applicants to elect points of attachment for the substituent groups. All of the compounds of the present have the same core imidazole group, with the -Q-R⁰ group attached to one nitrogen, and the other three substituent groups attached to the three carbons. It is submitted that this defines a specific structure which would not impose an undo examination burden on the Examiner. Actually, the three structural formulae set forth in claims 9-11 represent all of the possible alternative attachment schemes in accordance with the general structure of Formula (I) in claim 1 or 18. However, as required by the present Office Action, applicant elects the points of attachment as set forth in Formula (Ic) in claim 10.

Applicant respectfully traverses the present restriction requirement between the method-of-treatment claims of Group III and the composition claim of Group I. It is submitted that it would not impose an undo burden on the Examiner to search and examine the method-of-use claims together with the composition claims. However, if the restriction is maintained, applicant notes that the Examiner has presented and Advisory of Rejoinder under M.P.E.P. §821.04, and applicant hereby requests rejoinder of the claims of Group III after allowable subject matter has been identified within the claims of Group I. The method-of-treatment claims have been amended to depend from composition claim 18.

Applicant also traverses the restriction requirement in regard to the method-of-producing claims of Group II. Claim 13, the sole claim in Group II, has been amended to depend from composition claim 18. Claim 13 has also been amended for additional clarity. It is submitted that it would not impose an undo burden on the Examiner to search and examine this relatively simple and straight-forward claim for a method of preparation in combination with the search and examination of the composition claims.

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Docket No. DEAV2002/0085 US NP

For all of the above reasons, it is submitted that the claims in the present application are now in condition for allowance, and action to that effect is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment resulting from this Amendment to Deposit Account 18-1982.

Respectfully submitted,

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